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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,276	10/25/2005	Harry Kiemele	2004P10212WOUS	3051
29177	7590	04/23/2009		
K&L Gates LLP P.O. BOX 1135 CHICAGO, IL 60690			EXAMINER EVANSKO, LESLIE J	
			ART UNIT	PAPER NUMBER
			2854	
			MAIL DATE	DELIVERY MODE
			04/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/554,276

Applicant(s)

KIEMELE ET AL.

Examiner

Leslie J. Evanisko

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 2,4-7,9 and 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,8,10,16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/09/2009 & 10/25/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group II, claims 1, 3, 8, and 10, in the reply filed on July 28, 2008 is acknowledged.
2. Claims 2, 4-7, 9, and 11-15 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 28, 2008.

Drawings

3. The replacement sheet of drawings was received on February 9, 2009. This drawing sheet is approved by the Examiner.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 8, 10, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakai et al. (JP 11-320989 A).

With respect to claim 1, Sakai et al. teach a printer comprising a supply of printing medium 1; a medium transport device (i.e., the drive for platen roller 3) arranged such that the printing medium can be conveyed in an output transport direction; a control unit to control the medium transport device; and where the control unit is arranged such that the control unit activates the medium transport device in such a way that the medium transport device carries out a rest state (i.e., standby time) transport at periodic intervals, even without the presence of a print job, and at the start of an activation of a print job before processing the print job, within which rest state transport, the medium transport device transports the printing medium in and/or counter to the output transport direction. Particular attention is invited to Figures 1-4, the English language abstract, and the previously attached partial English language translation of Sakai et al. Note that Sakai et al. teach the rest state transport including the transport of the printing medium in and/or counter to the output transport direction occurs during a waiting or standby period between prints. To the extent that applicant has defined what is meant by “the start of an activation of a print job before processing the print job”, note that it is the Examiner’s position that Sakai et al. meet that claim language since the rest state transport movement that occurs in the time period immediately before printing resumes can be considered to be carried out “at the start of an activation of a print job before processing of the print job” as broadly recited.

With respect to claim 3, Sakai et al. teach the control unit is arranged to activate the medium transport device during the rest state transport in such a way that the printing medium is initially conveyed from an initial position counter to the output transport direction (i.e., backfed to resting position) and is then transported back into

the initial position in the output transport direction. See for example, the description of the embodiments of Figs. 2-4 and particularly paragraphs [0014] and [0026] which teach backfeeding the label and then feeding a label forward again such that the print start position at the time of printing of the next time at the time of returning from a waiting state does not shift. Note in particular paragraph [0014] of the partial translation indicates that an embodiment including reversing motion first and then rotating normally is also possible.

With respect to claim 8, Sakai et al. teach a method of controlling a printer comprising transporting a printing medium 1 with a medium transport device, even without a print job, in and/or counter to an output transport direction at periodic intervals during rest state transport, and at the start of an activation of a print job before processing the print job. See the previous comments with respect to claim 1. Although the printer of Sakai et al. does not specifically state that it may be used for printing out a report for a tachograph in a commercial vehicle, this language in the preamble is merely a functional recitation of an intended use and since the body of the claim fails to further limit the printer structure to that particular environment, it is the Examiner's position that the printer of Sakai et al. is capable of being used to print out a report for a tachograph as recited and thereby meets the claim language as recited. Particular attention is invited to MPEP 2111.02.

With respect to claim 10, Sakai et al. teach the method includes during the rest state transport, the printing material is initially conveyed from an initial position counter to the output transport direction and is then transported back into the initial position in the output transport direction in paragraph [0014].

With respect to claim 16, Sakai et al. teach a printer comprising a supply of printing medium 1; a medium transport device (i.e., the drive for platen roller 3) arranged such that the printing medium can be conveyed in an output transport direction; a control unit to control the medium transport device; and where the control unit is arranged to activate the medium transport device in such a way that, at the start of activation of a print job and before processing the print job, the medium transport device carries out a rest state (i.e., standby time), within which rest state transport, the medium transport device transports the printing medium in and/or counter to the output transport direction. Particular attention is invited to Figures 1-4, the English language abstract, and the previously attached partial English language translation of Sakai et al. Note that Sakai et al. teach the rest state transport including the transport of the printing medium in and/or counter to the output transport direction occurs during a waiting or standby period between print jobs. To the extent that applicant has defined what is meant by "the start of an activation of a print job before processing the print job", note that it is the Examiner's position that Sakai et al. meet that claim language since the rest state transport movement that occurs in the time period immediately before printing resumes can be considered to be carried out "at the start of an activation of a print job before processing of the print job" as broadly recited.

With respect to claim 17, Sakai et al. teach the control unit is arranged to activate the medium transport device during the rest state transport in such a way that the printing medium is initially conveyed from an initial position counter to the output transport direction (i.e., backfed to resting position) and is then transported back into the initial position in the output transport direction. See for example, the description of

the embodiments of Figs. 2-4 and particularly paragraphs [0014] and [0026] which teach backfeeding the label and then feeding a label forward again such that the print start position at the time of printing of the next time at the time of returning from a waiting state does not shift. Note in particular paragraph [0014] of the partial translation indicates that an embodiment including reversing motion first and then rotating normally is also possible.

Response to Arguments

6. Applicant's arguments filed February 9, 2009 have been fully considered but they are not persuasive of any error in the above rejections.

In particular, applicant argues that Sakai does not teach "the medium transport device carries out a rest state transport at periodic intervals, even without the presence of a print job, and at the start of an activation of a print job before processing the print job, within which rest state transport, the medium transport device transports the printing medium in and/or opposite to the output transport direction." Applicant states Sakai does not teach this claimed feature because the device of Sakai merely rotates the stepping motor in normal, reverse, and normal directions after passage of a fixed period of time, rather than "at the start of an activation of a print job before processing the print job" as explicitly recited in claim 1. Applicant points out that Sakai teaches a normal, reverse, and normal rotation of the stepping motor during the waiting time to temporarily free the recording paper from being adhered to the thermal head or roller. Thus, applicant argues, there is no teaching in Sakai to carry out the normal-reverse-

normal rotation of the stepping motor at the start of an activation of a print job before processing the print job.

The Examiner disagrees with this argument because it is the Examiner's position that the Sakai teaches carrying out a rest state transport at the start of an activation of a print job before processing the print job. In particular, the Examiner points out that Sakai et al. teach the rest state transport including the transport of the printing medium in and/or counter to the output transport direction occurs during a waiting or standby period between print jobs. To the extent that applicant has defined what is meant by "the start of an activation of a print job before processing the print job", note that it is the Examiner's position that Sakai et al. meet that claim language since the rest state transport movement that occurs in time period immediately before printing resumes can be considered to be carried out "at the start of an activation of a print job before processing of the print job" as broadly recited.

In view of the above reasoning, the Examiner is not persuaded of any error in the above rejections.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Leslie J. Evanisko** whose telephone number is **(571) 272-2161**. The examiner can normally be reached on T-F 8:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Leslie J. Evanisko /
Leslie J. Evanisko
Primary Examiner
Art Unit 2854

lje
April 21, 2009